

## REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed August 28, 2007.

In the Office Action, claims 1-28 stand rejected under 35 U.S.C. § 103.

Reconsideration in light of the declaration submitted herewith and remarks made herein is respectfully requested.

### *Specification*

The Examiner notes that the title of the invention is misspelled. In particular, the word “BLADE” is misspelled as “BALDE”. Applicant has noted that there is an error in the filing receipt as the title on the patent application filed is correct. Accordingly, Applicant is concurrently filing a correction to the filing receipt with the United States Patent and Trademark Office.

### *Rejection Under 35 U.S.C. § 103*

Claims 1-5, 7-12, and 14 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent No. 6,622,260 issued to Marisetty et al. (hereinafter Marisetty) in view of U.S. Patent No. 6,971,044 to Geng et al. (hereinafter Geng). Claims 6 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marisetty in view of Geng and further in view of U.S. Publication No. 2004/0054780 to Romero et al. (hereinafter Romero). Claims 15-28 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Marisetty in view of Geng and further in view of Romero.

The Office Action states that Marisetty qualifies as prior art under 35 U.S.C. § 102(a), or in the alternative, under 35 U.S.C. § 102(e).

Applicant respectfully traverses these rejections because, *inter alia*, Marisetty does not constitute prior art under § 102(a) or § 102(e).

As to § 102(a), Applicant submits herewith a declaration under 37 C.F.R. § 1.131 wherein the inventor declares that the claimed invention was conceived prior to September 16,

2003, the issue date of the Marisetty patent at which point Marisetty was “patented” and “published”. A copy of an Intel Corporation Invention Disclosure form pre-dating the September 16, 2003 issue and publication date is also offered into evidence as Exhibit A in conjunction with the Declaration.

Therefore, Marisetty does not constitute a reference that was “patented” or described in a printed “publication”...before the invention thereof by the Applicant...(As required by 35 U.S.C. § 102(a)).

Applicant respectfully submits that because Marisetty is not a valid prior art reference and because Geng and Romero do not teach, suggest, or render obvious the claim limitations of independent claims 1, 8, 15, and 22, that these claims are allowable and should be passed to issuance. Additionally, the dependent claims are patentable for being dependent from allowable base claims.

Further, Applicant respectfully submits that Marisetty is not a valid prior art reference as part of an obviousness rejection in combination with Geng and Romero because § 102(e) references may be excluded by 35 U.S.C. § 103(a).

35 U.S.C. § 103(c) excludes references which may qualify as prior art under 35 U.S.C. § 102(e), (f), and (g) from being used as prior art reference under 35 U.S.C. § 103(a). The text of 35 U.S.C. § 103(c) recites “Subject matter developed by another person, which qualifies as prior art under one or more subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time of the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” [See 35 U.S.C. § 103(c), MPEP 706.2(I)(1), 37 CFR § 1.104(c)(4)].

The subject matter of Marisetty and the claimed present invention were, at the time the invention was made, owned by or subject to an obligation of assignment to Intel Corporation. In particular, Marisetty was filed on December 30, 1999 and issued on September 16, 2003 while the above-referenced patent application was filed on September 23, 2003.

Therefore, Marisetty is not a valid prior art reference and cannot be used to render obvious the embodiments of Applicant's present invention as claimed in independent claims 1, 8, 15, and 22. Accordingly, because Marissetty is not a valid prior art reference, and because Geng and Romero do not teach, suggest, or render obvious the claim limitations of independent claims 1, 8, 15, and 22, Applicant respectfully submits that these claims are allowable and should be passed to issuance. Further, the dependent claims are patentable for being dependent from allowable base claims.

Based upon the above, reconsideration and withdrawal of these rejections is respectfully requested and Applicant respectfully requests that the Examiner move the claims to issuance at the earliest possible date. The Examiner is invited to call Applicant's attorney if it is believed that such contact would further the examination of the present application.

***Conclusion***

In view of the remarks made above, it is respectfully submitted that pending claims 1-28 are allowable over the prior art of record. Thus, Applicant respectfully submits that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. To the extent necessary, a petition for an extension of time under 37 C.F.R. is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

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